

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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OCT 10 1996

Federal Communications Commission  
Office of Secretary

In the Matter of )

Telephone Number Portability )

CC Docket No. 95-116  
RM 8535

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REPLY

GTE Service Corporation ("GTE"), pursuant to Section 1.429(g) of the Commission's Rules, by its attorneys, and on behalf of its telephone operating and wireless companies, hereby submits its Reply to certain Oppositions to its Petition for Clarification and Reconsideration ("Petition") of the *First Report and Order* in the above-captioned proceeding.<sup>1</sup> As explained in GTE's Petition, and further discussed below, the Commission should:

- state that QOR is an acceptable method for implementing long-term number portability;
- reject attempts to accelerate the implementation schedule and clarify the circumstances under which the Commission will grant waivers of the deadlines;
- leave the recovery of interim number portability costs to the states and private negotiations; and
- develop the record regarding CMRS number portability or, in the alternative, relax the requirements imposed on CMRS providers.

<sup>1</sup> *First Report and Order*, 11 FCC Rcd 8352 (1996).

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**I. THE COMMISSION SHOULD CLARIFY ANY MISCONCEPTIONS ASSOCIATED WITH QOR AND STATE THAT IT IS AN ACCEPTABLE METHOD OF IMPLEMENTING LONG-TERM NUMBER PORTABILITY**

The record clearly demonstrates that QOR is an appropriate method of implementing long-term number portability, especially within a LEC's own network.<sup>2</sup> However, parties, such as AT&T, attempt to minimize the benefits of QOR by misstating the nature of this methodology. GTE urges the Commission to consider carefully the public benefits of QOR as one means to achieve long-term number portability and confirm that this methodology may be used within a LEC's network and between consenting networks.

For example, AT&T claims that QOR results in delays "for business and other customers receiving calls that must be answered and handled as quickly as possible."<sup>3</sup> AT&T goes on to state that "QOR increases PDD [post-dial delay] for business and other customers who have 'ported' their numbers, imposing a serious 'penalty' on such subscribers for switching local exchange carriers."<sup>4</sup> This assertion is simply incorrect. A careful examination of how QOR functions will show that any business (or residential) customer *receiving* calls will not experience any additional PDD caused by QOR. When the call is delivered to the called party, the called party answers. There is no delay, perceivable or not, to the called party. The

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<sup>2</sup> See, e.g., Petition of Bell Atlantic at 3-10; Petition of BellSouth at 21-24; Petition of GTE at 10; Petition of NYNEX at 3-6; Petition of Pacific Telesis Group at 2-11; Petition of SBC Communications, Inc. at 1-2; Petition of United States Telephone Association at 2-10; Petition of U S West at 12-15; Opposition of Cincinnati Bell Telephone Company at 1; Opposition of Pacific Telesis Group at 5; Opposition of NYNEX at 1.

<sup>3</sup> Opposition of AT&T at 13.

<sup>4</sup> *Id.* at 13-14.

imperceptible delay falls upon the LEC's customer, not the called party, whether the called party has ported its number or not.

In addition, any inference that large business customers would be persuaded not to select a CLEC solely because of PDD caused by QOR is untenable. The only thing that can be said with accuracy is that the call "rang" on the called party's customer premises equipment ("CPE") several milliseconds later than if LRN were used. The called party would not be aware of any delay. The duration of the call would be completely unaffected by the use of QOR. Thus, the quality and convenience of the called party's local service are not affected by QOR.

AT&T also erroneously states that "[b]y invariably sending an SS7 signaling message to the ILEC switch originally assigned an NXX code before further processing a call, QOR requires that competing carriers . . . rely on ILEC switches and signaling links to perform number portability functions."<sup>5</sup> AT&T has failed to analyze closely the technical aspects of QOR. Any CLEC choosing not to use QOR will not have to signal the donor office. Such signaling is only done when carriers have voluntarily selected QOR. A CLEC using LRN would route the call the same regardless of whether the ILEC who has the donor office implements QOR or not. Clearly, a CLEC's choice in routing calls to ported numbers is not limited by the ILEC's selection of a long-term number portability methodology.

GTE further submits that, as a minimum, the Commission should allow carriers to use QOR within their own networks as a matter of business judgment and

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<sup>5</sup> *Id.* at 14-15 (emphasis in original).

sound network design. Until a call is handed off, the carrier should have a certain level of autonomy over how to route a call to a ported number. Precluding the use of QOR within a carrier's network or between carriers by mutual agreement would essentially remove the ILEC's ability to manage this critical component of its internal business and operations. Such interference should not be permitted, especially in the absence of harm to competitors. Thus, the Commission should decline to tie the hands of ILECs and should refuse to usurp their authority to manage and design their own businesses.

In addition, the Commission should not accede to AT&T's request that the Commission summarily reject the valid arguments, data, and other facts set forth by petitioners.<sup>6</sup> This procedural argument is without merit and would work against the Commission's public interest obligations. Contrary to AT&T's implication, GTE and other petitioners have provided the Commission with significant information throughout this proceeding. However, the Commission's conclusions in the *First Report and Order*, as well as parties' statements thereafter, reflect a continuing misunderstanding of QOR that required GTE and others to supply additional information and to explain further the material previously submitted.

As AT&T acknowledges, reconsideration is appropriate "when the Commission determines that subsequent consideration is required to protect the public interest."<sup>7</sup> The public interest can only be served when the record is complete

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<sup>6</sup> *Id.* at iii, 6.

<sup>7</sup> *Id.* at 7 n.19 (quoting *Creation of an Additional Private Radio Service*, 1 FCC Rcd 5, 6 (1986)).

and accurate, including a complete and accurate understanding of QOR.

Accordingly, the Commission should not reject the further information and analyses submitted by the petitioners on this important issue.

**II. THE COMMISSION SHOULD REJECT REQUESTS TO ACCELERATE THE NUMBER PORTABILITY IMPLEMENTATION SCHEDULE AND CLARIFY THE CIRCUMSTANCES UNDER WHICH IT WILL GRANT WAIVERS OF THE DEADLINES**

The assertion that “permanent number portability can easily be implemented in the time frame established by the Commission”<sup>8</sup> is exceedingly optimistic. Further, this claim overlooks the existence of factors beyond a LEC’s control that may hinder its ability to meet the deadline.<sup>9</sup> GTE is clearly aware that a LEC may request a waiver or stay of the implementation schedule under the Commission’s Rules. However, further clarification is warranted regarding the circumstances under which the Commission will grant a waiver. Parties such as AT&T, MCI, and Sprint provide no reasonable justification for denying such a clarification. It is indisputable that identifying situations in which the Commission will grant a waiver provides LECs with much needed guidance.

GTE simply requests that the Commission clarify its rules to indicate that a LEC will be entitled to a waiver if it cannot meet the schedule for reasons beyond its control. This request does not require the Commission to modify its schedule and does not excuse LECs from implementing number portability. Rather, GTE’s

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<sup>8</sup> Opposition of AT&T at 20.

<sup>9</sup> As GTE articulated in its Petition, such factors include: the development, testing, and deployment of switch software; upgrades to Operational Support Systems; and action by the North American Numbering Council. Petition of GTE at 3-8.

proposal for clarification merely adds flexibility to the Commission's Rules, thereby, fostering greater compliance.

GTE's proposal to establish a process for exempting smaller offices in the top 100 MSAs from the deployment schedule also adds flexibility. MCI's description of this proposal as a "blanket waiver [ ]"<sup>10</sup> is an overstatement. GTE is not asking the Commission to exempt smaller offices simply on principle. To the contrary, GTE details a process that involves all interested parties -- prospective entrants, the affected state PUCs, the LECs, and the Commission.<sup>11</sup> Indeed, LECs are required to coordinate with prospective entrants before filing for a waiver with respect to a particular office. In addition, the proposed waiver policy would enable LECs that have a mix of more densely populated and less densely populated service areas to devote their resources to upgrading offices in areas where competition will develop most quickly. Even Sprint acknowledges the value of GTE's suggestion and "agrees that an ILEC should be allowed to request a waiver of the implementation schedule for those offices for which it has not received a *bona fide* request for portability."<sup>12</sup>

### **III. THE COMMISSION SHOULD LEAVE THE RECOVERY OF INTERIM NUMBER PORTABILITY COSTS TO THE STATES AND PRIVATE NEGOTIATIONS**

As SBC stated in its Petition, the 1996 Act does not mandate that the Commission establish rules to govern cost recovery for interim number portability.<sup>13</sup>

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<sup>10</sup> Opposition of MCI Telecommunications Corp and MCIMetro ("MCI") at 18.

<sup>11</sup> Petition of GTE at 8-10.

<sup>12</sup> Opposition of Sprint at 13.

<sup>13</sup> Petition of SBC at 5.

Therefore, it is appropriate for the Commission to refrain from promulgating detailed requirements and leave cost recovery to the states and individual carriers. Existing mechanisms allow LECs to recover most of their costs associated with implementing number portability. However, the cost principles established by the Commission effectively would force incumbent LECs to recover the costs of interim number portability either through increased service rates (which are generally foreclosed by local competition and state regulatory constraints on increasing end user charges) or by requiring shareholders to foot the bill (which would clearly result in an unconstitutional "taking" in violation of the Fifth Amendment).

If, on the other hand, the Commission does not defer to the existing state mechanisms and intercarrier agreements for recovery of the costs of interim number portability, the Commission should prescribe a method of pooling all of the carriers' costs. Sprint's assertions that cost pooling involves cross-subsidies and is administratively costly and cumbersome<sup>14</sup> are faulty. The risk of inefficiency and misallocation of cost from pooling is slight. Because ILECs will undoubtedly incur a large percentage of number portability costs, they have an incentive to implement this technology in the most efficient manner possible.

#### **IV. THE COMMISSION SHOULD DEVELOP THE RECORD REGARDING CMRS NUMBER PORTABILITY OR, IN THE ALTERNATIVE, RELAX THE REQUIREMENTS IMPOSED ON CMRS PROVIDERS**

Both MCI and the Telecommunications Resellers Association ("TRA") ask the Commission to maintain the inflexible CMRS number portability requirements

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<sup>14</sup> Opposition of Sprint at 10.

established in the *First Report and Order*.<sup>15</sup> Imposing strict number portability requirements on CMRS providers ignores not only the language of the 1996 Act but also the realities of the marketplace. Consequently, GTE urges the Commission to reconsider its position.

As Bell Atlantic NYNEX Mobile ("BANM") pointed out in its petition, the 1996 Act provides no basis for imposing number portability obligations on CMRS providers.<sup>16</sup> Even the Commission acknowledges that the 1996 Act explicitly excludes commercial mobile service providers from the definition of local exchange carriers, and thus from the obligation to provide number portability under Section 251(b).<sup>17</sup>

In addition, the record does not provide a sufficient basis for imposing number portability requirements on CMRS providers. TRA's assertion of a lack of competition in the cellular market is without merit.<sup>18</sup> As GTE pointed out in its Opposition, there is significant competition in the wireless industry.<sup>19</sup> Moreover, the Commission has failed to establish that the lack of number portability impairs competition between wireless and landline exchange service providers.<sup>20</sup> Currently, there is little if any direct substitutability between the two groups. Until CMRS providers become competitive alternatives to wireline carriers for local exchange

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<sup>15</sup> Opposition of MCI at 19-22; Opposition of TRA at 13-14.

<sup>16</sup> Petition of Bell Atlantic NYNEX Mobile ("BANM") at 3.

<sup>17</sup> *First Report and Order* at 8431.

<sup>18</sup> Opposition of TRA at 13.

<sup>19</sup> This conclusion is supported by the fact that the rate of turnover on accounts is nearly 30 percent annually. See Opposition of Petition of GTE at 21-22.



service, the schedule for implementation of CMRS number portability should remain flexible. The deadlines should instead be targets only. Of course, when a CMRS provider becomes a LEC and offers service that is used in place of local wireline exchange services, it would become subject to the 1996 Act and should then comply with the schedule as a LEC. Thus, there is no basis in the record for promulgating CMRS number portability rules.

However, if the Commission decides to impose number portability requirements on CMRS providers, it must recognize the unique problems facing the CMRS industry. In light of these differences, it is unreasonable for the Commission to impose more burdensome, or even similar, obligations on CMRS providers than on landline LECs. Accordingly, the Commission should recharacterize the implementation dates for wireless number portability as targets rather than rigid deadlines. This built-in flexibility takes into account the steps necessary to successfully implement wireless number portability (e.g., allowing time to determine what solutions are available and in what time frame; establishing wireless industry number portability standards; negotiating agreements between service providers and qualified vendors; and establishing testing phases to ensure network integrity). Given the unresolved issues facing the wireless industry, it is appropriate to establish targets rather than rigid deadlines, and to allow CMRS providers to deploy number portability on a phased-in basis, as is the case for landline LECs.<sup>21</sup>

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<sup>20</sup> *Id.* at 22.

<sup>21</sup> For a more thorough discussion of GTE's proposal regarding CMRS number portability, see Petition of GTE at 21-24.

## CONCLUSION

For the foregoing reasons, and those expressed in its Petition, GTE urges the Commission to clarify and/or reconsider certain aspects of its *First Report and Order*.

Respectfully submitted,

GTE Service Corporation, on behalf  
of its affiliated domestic telephone  
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October 10, 1996

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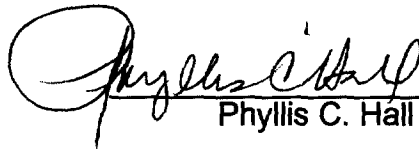
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